

HOUSE BILL 139

D4

11r0095

By: **Chair, Judiciary Committee (By Request – Departmental – Human Resources)**

Introduced and read first time: January 25, 2011

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Waiver of Reunification Services**

3 FOR the purpose of altering the circumstances under which a local department of
4 social services may ask the court in a child in need of assistance proceeding to
5 find that reasonable reunification efforts are not required; altering the factors
6 that a juvenile court is required to consider in ruling on a petition for
7 guardianship of a child; altering the circumstances under which a juvenile court
8 may waive a local department's obligations to provide certain services to a
9 parent; and generally relating to child abuse and neglect.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 3–812
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2010 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Family Law
17 Section 5–323
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2010 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Courts and Judicial Proceedings**

23 3–812.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) In this section the following words have the meanings indicated,
2 unless the context of their use indicates otherwise.

3 (2) “Crime of violence”:

4 (i) Has the meaning stated in § 14–101 of the Criminal Law
5 Article; or

6 (ii) As to a crime committed in another state, means a crime
7 that, if committed in this State, would be a crime of violence as defined in § 14–101 of
8 the Criminal Law Article.

9 (3) “Torture” means to cause intense pain to body or mind for purposes
10 of punishment or extraction of information or for sadistic purposes.

11 (b) In a petition under this subtitle, a local department may ask the court to
12 find that reasonable efforts to reunify a child with the child’s parent or guardian are
13 not required if the local department concludes that a parent or guardian has:

14 (1) Subjected [the] A child to:

15 (i) Chronic abuse;

16 (ii) Chronic and life–threatening neglect;

17 (iii) Sexual abuse; or

18 (iv) Torture;

19 (2) Been convicted, in any state or any court of the United States, of:

20 (i) A crime of violence against:

21 1. A minor offspring of the parent or guardian;

22 2. The child; or

23 3. Another parent or guardian of the child; or

24 (ii) Aiding or abetting, conspiring, or soliciting to commit a
25 crime described in subitem (i) of this item; or

26 (3) Involuntarily lost parental rights of a sibling of a child.

27 (c) If the local department determines after the initial petition is filed that
28 any of the circumstances specified in subsection (b) of this section exists, the local

1 department may immediately request the court to find that reasonable efforts to
2 reunify the child with the child's parent or guardian are not required.

3 (d) If the court finds by clear and convincing evidence that any of the
4 circumstances specified in subsection (b) of this section exists, the court shall waive
5 the requirement that reasonable efforts be made to reunify the child with the child's
6 parent or guardian.

7 (e) If the court finds that reasonable efforts are not required, the local
8 department shall:

9 (1) Request that a permanency planning hearing be held in accordance
10 with § 3-823 of this subtitle within 30 days after the court makes the finding; and

11 (2) Make reasonable efforts to place the child in a timely manner in
12 accordance with the permanency plan and complete the steps necessary to finalize the
13 permanent placement of the child.

14 (f) If a parent consents to guardianship or adoption in accordance with
15 § 5-320 or § 5-338 of the Family Law Article, loss of parental rights shall be
16 considered voluntary.

17 Article – Family Law

18 5-323.

19 (a) In this section, “drug” means cocaine, heroin, methamphetamine, or a
20 derivative of cocaine, heroin, or methamphetamine.

21 (b) If, after consideration of factors as required in this section, a juvenile
22 court finds by clear and convincing evidence that a parent is unfit to remain in a
23 parental relationship with the child or that exceptional circumstances exist that would
24 make a continuation of the parental relationship detrimental to the best interests of
25 the child such that terminating the rights of the parent is in a child's best interests,
26 the juvenile court may grant guardianship of the child without consent otherwise
27 required under this subtitle and over the child's objection.

28 (c) A juvenile court need not consider any factor listed in subsection (d) of
29 this section in determining a child's best interests if, after a thorough investigation by
30 a local department, the juvenile court finds that:

31 (1) the identities of the child's parents are unknown; and

32 (2) during the 60 days immediately after the child's adjudication as a
33 child in need of assistance, no one has claimed to be the child's parent.

34 (d) Except as provided in subsection (c) of this section, in ruling on a petition
35 for guardianship of a child, a juvenile court shall give primary consideration to the

1 health and safety of the child and consideration to all other factors needed to
2 determine whether terminating a parent's rights is in the child's best interests,
3 including:

4 (1) (i) all services offered to the parent before the child's
5 placement, whether offered by a local department, another agency, or a professional;

6 (ii) the extent, nature, and timeliness of services offered by a
7 local department to facilitate reunion of the child and parent; and

8 (iii) the extent to which a local department and parent have
9 fulfilled their obligations under a social services agreement, if any;

10 (2) the results of the parent's effort to adjust the parent's
11 circumstances, condition, or conduct to make it in the child's best interests for the
12 child to be returned to the parent's home, including:

13 (i) the extent to which the parent has maintained regular
14 contact with:

15 1. the child;

16 2. the local department to which the child is committed;
17 and

18 3. if feasible, the child's caregiver;

19 (ii) the parent's contribution to a reasonable part of the child's
20 care and support, if the parent is financially able to do so;

21 (iii) the existence of a parental disability that makes the parent
22 consistently unable to care for the child's immediate and ongoing physical or
23 psychological needs for long periods of time; and

24 (iv) whether additional services would be likely to bring about a
25 lasting parental adjustment so that the child could be returned to the parent within an
26 ascertainable time not to exceed 18 months from the date of placement unless the
27 juvenile court makes a specific finding that it is in the child's best interests to extend
28 the time for a specified period;

29 (3) whether:

30 (i) the parent has abused or neglected the child or a minor and
31 the seriousness of the abuse or neglect;

32 (ii) 1. A. on admission to a hospital for the child's
33 delivery, the mother tested positive for a drug as evidenced by a positive toxicology
34 test; or

